

1 October 1953

OGC HAS REVIEWED.

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT: Liberalized Retirement System for CIA Employees

PROBLEM

The proposal that a liberalized retirement system be adopted for CIA employees raises the following questions:

1. Do the duties of these employees vary to such a degree from the duties of the average Government employee as to warrant a more liberal retirement system?

2. Assuming that their duties subject them to unusual working conditions, is a liberalized retirement system a feasible method of affording them compensation?

3. Inasmuch as legislation would be required to effect a change in their retirement benefits, should this legislation take the form of (a) a CIA retirement act, or (b) an amendment to the Civil Service Retirement Act?

4. What factors should be considered in computing retirement benefits?

5. What weight should be given to the applicable retirement factors?

FACTORS BEARING ON THE PROBLEM

1. A "Committee on Retirement Policy for Federal Personnel," commissioned by the Congress, under the leadership of Elliott Kaplan is currently engaged in a study of the entire Government retirement system. Its findings might very well affect any legislation which CIA requests for its employees.

2. Precedent exists for liberalized retirement systems for Government employees whose working conditions are somewhat comparable to those of a substantial number of CIA employees in Section 691(d) of 5 U. S. Code Annotated for persons engaged in the investigation and apprehension of criminals (for example, FBI Agents) and in the Foreign Service Act of 1946 for Foreign Service Officers.

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ASSUMPTION

It is assumed that a liberalized retirement system could not be justified for CIA personnel purely on the basis of their CIA employment. Although their duties subject them to unusual security restrictions, this situation is not so unusual in Government agencies as to warrant special retirement benefit consideration. Consequently, this study is confined to consideration of a liberalized retirement system for CIA employees whose duties subject them to working conditions which are substantially different from those of the average recipient of Civil Service retirement benefits.

DISCUSSION

1. Do the duties of CIA employees vary to such a degree from the duties of other Government employees as to warrant a more liberalized retirement system?

a. The duties of a substantial number of CIA employees vary from the duties of the average recipient of Civil Service retirement benefits in the following respects:

(1) Some are from time to time engaged in activities which might properly be defined as hazardous duty.

(2) Some serve overseas intermittently or for extended periods of time under clandestine conditions which limit them in the pursuit of normal living and sometimes expose them to hazardous conditions.

(3) Some serve overseas at posts which might properly be defined as "unhealthful."

b. While it is recognized that many civilian employees of other Government agencies, for example, Department of Defense, Department of State, et al, serve overseas without special retirement benefits, it must also be recognized that CIA employees serving abroad differ from them in the following respects:

(1) They all work under the cover of some other Government agency or private enterprise activity and in so doing must adjust their personal lives to comply with cover conditions.

(2) They are members of a career service which might require them to serve at any post throughout the world as operational need dictates.

(3) As employees of CIA they are likely targets of foreign intelligence services and, as such, are subject to unusual hazards.

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c. It must be further recognized that the type of clandestine activity in which many CIA employees are engaged overseas requires a combination of mental, physical, and psychological characteristics which are found in diminishing proportions as employees advance past age 50 and particularly in those employees who have been engaged in such activity for an extended period of time. For this reason, retirement at an earlier age than permitted by the Civil Service Retirement Act for such employees is a factor which, for the benefit of the service, should be considered in weighing justification. Apart from the benefit to the service which could be achieved by encouraging early retirement of some employees, the intangible factor of esprit de corps which is derived in part from separate and unique benefits and which is so important as an incentive to the performance of duties overseas which are of an unusual and sometimes semihazardous nature, must also be given recognition.

2. Assuming that the duties of certain CIA employees subject them to unusual working conditions, is a liberalized retirement system a feasible method of affording them compensation?

a. Precedent exists for liberalized retirement systems for FBI Agents and certain other Government employees because of hazardous duty, and for Foreign Service Officers presumably because of their eligibility for continuous overseas service. It must be pointed out, however, that FBI Agents receive no compensation for their unusual type of duty other than special retirement benefits and that Foreign Service Officers, although receiving special retirement benefits, are disqualified for post differential compensation which accrues to other Department of State employees serving overseas.

b. Considering overseas duty under unusual working conditions as a factor which distinguishes CIA employees from other recipients of Civil Service retirement benefits, it should be recognized that if the acquisition of liberalized retirement benefits resulted in disqualifying them in any way from the financial benefits now accruing to such services, the achievement would be of little worth and definitely negative as a morale factor. While this thought might seem to indicate that CIA would be requesting greater benefits than accrue to recipients of other liberalized retirement systems, the proposals of this paper as hereinafter discussed are actually more conservative than the retirement provisions of either the Foreign Service Act of 1946 or Section 691(d) of 5 U. S. Code Annotated, which applies to FBI Agents and other persons engaged in the investigation and apprehension of criminals.

c. In weighing the feasibility of applying liberalized retirement benefits as compensation for the performance of hazardous duty, as such, the following obstacles present themselves:

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(1) The difficulty of defining clearly what constitutes hazardous duty and then describing it adequately in any proposed legislation.

(2) The difficulty of applying the definition on a practical basis as a factor in computing creditable service for a reduced retirement age, e.g., the intermittent performance of hazardous duty could not be measured on a length of service basis.

While recognizing that some employees of the Office of Training, Security, and TSS perform hazardous duty in the United States, it is felt that provisions should be made for their compensation by some method other than liberalized retirement benefits.

d. It would appear, then, that a liberalized retirement system is a feasible manner of compensating for duty overseas under unusual conditions but is not feasible in CIA as a compensation for hazardous duty as such. ||

3. Inasmuch as legislation would be required to effect a change in CIA retirement benefits, should this legislation take the form of:

a. a CIA retirement act, or

b. an amendment to the Civil Service Retirement Act?

(1) Basic to the proposal for new legislation which would affect CIA must be the consideration of whether or not the new legislation might in any way restrict the existing authority of the DCI. Caution must be exercised to assure that what appears to be a gain in benefits to CIA employees does not result in a legislative encumbrance on the Director's powers.

(2) The advantages of proposed legislation in the form of a CIA retirement act lie in the fact that such an act would allow for the internal administration of the system without reference to the authority or review of the Civil Service Commission.

(3) The advantages of requesting amendment to the Civil Service Retirement Act would lie in the fact that advantage could be taken of the existing framework which could be modified only to the extent which the Agency desired. The individual mechanics of such items as "annuities to survivors," "return of deposits," "reduced annuities" would not have to be spelled out as they would if an entire retirement system were adopted.

(4) The advantages of an amendment to the Civil Service Retirement Act appear to outweigh those of a CIA retirement act principally on the basis of simplicity of application.

4. What factors should be considered in computing retirement benefits?

a. In pursuing the thought expressed in paragraph 2 above that compensation by way of retirement benefits for hazardous duty did not appear to be feasible, it should not, therefore, be used in the computation of retirement benefits. The following factors merit consideration as the basis for computing retirement benefits:

(1) Total length of service.

(2) Length of service overseas.

(3) Length of service overseas at an unhealthful post or posts, as designated by the President under the provisions of Section 853 of the Foreign Service Act of 1946.

(4) Age.

5. What weight should be given to applicable factors?

a. Obviously the details to which the mechanics of the adopted system should extend would depend on whether the legislation would take the form of:

(1) a CIA retirement act, or

(2) an amendment to the Civil Service Retirement Act.

This discussion is not intended to outline in detail all the provisions of a separate CIA system but will confine itself to the suggested weights which might be applied to the various factors which might effect retirement.

b. If there is validity in the idea that certain CIA employees who are engaged in activities which require qualifications found to a lesser degree in persons over 50, it would seem that using the minimum voluntary age of 60 (as prescribed by the Civil Service Retirement Act) as a basis, credit could be given on applicable factors to progressively reduce this age requirement to a point not less than age 55. Further using the 30 year minimum length of service requirement of the Civil Service Retirement Act as a basis, credit could be given on applicable factors to reduce the requirement to 25 or even 20 years service. Following is a suggested table of weights to achieve the above requirements:

For each year of service overseas - 18 months creditable service
For each year at an unhealthful post - 2 years creditable service
For each year of service overseas - 6 months credit toward
reducing the voluntary retirement age
For each year of service at an unhealthful post - 8 months credit
toward reducing the voluntary retirement age

c. The application of such a table of weights would result in a much more conservative retirement system than enjoyed by either Foreign Service Officers or federal personnel engaged in the investigation and apprehension of criminals, e.g., FBI Agents.

CONCLUSIONS

1. Arguments establishing justification for a liberalized retirement system for CIA employees engaged in certain types of activities are sufficiently conclusive to warrant a request for legislation.
2. A liberalized retirement system as a means of compensation to CIA employees for unusual working conditions is feasible providing that in acquiring such benefits the recipients are not disqualified in any way from receiving compensatory benefits which now accrue to them for duty overseas.
3. The proposed legislation should take the form of a request to amend the Civil Service Retirement Act.
4. "Hazardous duty" should not be considered in itself as a retirement benefit factor but should be used in justifying the use of other factors which might be more practically applicable. Age, total length of service, length of service overseas, and length of service at an unhealthful post should be considered as practical factors for computing retirement benefits.
5. Practical conservative weight standards can be applied to the factors which might qualify CIA employees for special retirement benefits.

RECOMMENDATIONS

1. That the CIA Career Service Board approve the conclusions and secure DCI approval.
2. That the Office of the General Counsel be requested to prepare legislation.
3. That the Assistant Director of Personnel be requested to prepare appropriate justification and supporting data.
4. That the Deputy Director (Administration) be requested to assume all responsibility for action.

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